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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,761	09/17/2003	Cheryl Lynn Carlson	PGI6044P0172US	4140
32116	7590	09/29/2005	EXAMINER	
WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661			TORRES VELAZQUEZ, NORCA LIZ	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/664,761

Applicant(s)

CARLSON ET AL.

Examiner

Norca L. Torres-Velazquez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-33 is/are pending in the application.
- 4a) Of the above claim(s) 12-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11 and 23-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 122203.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 12-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on September 06, 2005.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 11 and 23-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 11 recites the limitation "the fibrous component" in line 2 and "the fibrous structure" in line 3. There is insufficient antecedent basis for this limitation in the claim. It is noted that the claim fails to positively recite or define what is 'a fibrous component'.

5. Further, the language in lines 3-5 of claim 11 is not clear. Is the fiber density of the first layer variable?

6. With regards to claim 23, the language in lines 3-5 of the claim is very confusing as to what is meant by "intrudes upon" and "is presented the surface of the first layer..." Further, is the fiber density of the first layer variable?

7. Claims 24-33 are indefinite as being dependent on claims 11 and 23.

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Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 11 and 24-27 are rejected under 35 U.S.C. 102(e) as being anticipated by FLEISSNER (US 6,487,762 B1) applied herein as an English equivalent for DE 19956571 A1, published November 24, 1999.

FLEISSNER discloses a nonwoven as an upper layer of a two-layer nonwoven; the nonwoven is provided with one or more colors and is placed on a second nonwoven or a woven or one that has a different color. Then both layers are subjected to water jets (hydro

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entanglement) that displace the fibers, with the colored fibers in the first layer being displaced into the second layer to produce a pattern on the underside of the second layer. (Abstract) The reference teaches that the nonwoven in the first layer can come directly from a card and has fine fibers of one or different colors. (Col. 1, lines 44-45) The reference further teaches the use of polyester fibers and/or polypropylene fibers and/or natural fibers. (Col. 2, lines 33-35)

It is the Examiner's interpretation that the two-layer nonwoven laminate of FLEISSNER equates to the presently claimed non-woven composite. The application of water jets as taught by the reference produced the relocation or intermingling of the fibers between the layers and depending on the design of the pattern used during the water jet treatment, the nonwoven material will have areas with different density regions as taught by the reference. (Col. 2, lines 58-67 through Col. 3, lines 1-5)

10. Claims 23 and 30-33 are rejected under 35 U.S.C. 102(b) as being anticipated by KIRCHBERGER et al. (US 6,300,257 B1) applied herein as an English equivalent for DE 19956571 A1, published November 24, 1999.

KIRCHBERGER et al. disclose an extrusion-coated nonwoven sheeting comprising a nonwoven sheeting layer and an extrusion coating of the nonwoven sheeting layer having a weight per unit area of 5 to 70 g/m² [0.147-2.06 oz/yd²]. (Refer to claim 1) The reference teaches using the textile in clothing industry.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over FLEISSNER as applied above, and further in view of BOULTON (US 4,144,370).

FLEISSNER is silent to the basis weight of the first and second non-woven layers.

BOULTON discloses a double layer textile fabric comprising two integrally entangled layers. The fabric can be used as toweling, furnishings, bandage, sanitary dressing cover or other medical uses. (Col. 5, lines 61-64) The first layer contains fibers arranged to form a pattern of apertures or opening in the layer. The second layer comprises a plurality of entangled areas, which are disposed within the apertures of the first layer to form a unitary textile fabric. (Abstract) The reference teaches a textile fabric that comprises a base layer and a second layer substantially coplanar entangled with the base layer. (Col. 1, lines 45-51) The reference teaches the use of nonwoven fabric suitable as a base layer. (Col. 3, lines 53-54) BOULTON further teaches carded, air-laid and wet-laid webs. (Col. 4, lines 31-37) The reference teaches a base fabric with a weight of 750 grains per square yard (1.71 oz/yd²) and a top web layer that weights about 350 grains per square yard (0.8 oz/yd²). (Refer to Col. 5, Example 1) It is noted that the BOULTON reference is also directed to hydro-entangled composite materials.

Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the nonwoven layers of FLEISSNER and provide them with basis weights in the ranges disclosed by BOULTON motivated by the desire of producing materials suitable as toweling, furnishings, bandage, sanitary dressing cover or other medical uses as taught by BOULTON. (Col. 5, lines 61-64)

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13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

LOCHNER (US 3,705,064) -

CRAINIC (US 6,893,522 B1)

CURTIS et al. (US 6,859,983 B2) – Col. 3, lines 33-40

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Norca L. Torres-Velazquez
Primary Examiner
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September 23, 2005